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7
8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2003-562

13 DEBORAH MARIE FLORES
14 1468 Creekside Drive
15 San Bernardino, CA 92407

A C C U S A T I O N

16 Vocational Nurse License No. VN 205629

17 Respondent.

18 Complainant alleges:

PARTIES

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
20 Accusation solely in her official capacity as the Executive Officer of the Bureau (formerly Board)
21 of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs ("Bureau").
22 2. On or about August 27, 2003, the Bureau issued Vocational Nurse License
23 No. VN 205629 to Deborah Marie Flores ("Respondent"). The Vocational Nurse License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on
25 September 30, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Bureau¹, under the authority of the following laws. All section references are to the California Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Bureau may renew an expired license at any time within four years after the expiration.

Section 477 of the Code states that as used in this division,

“(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

“(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.”

5. Section 490 of the Code provides, in pertinent part, that the Bureau may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

6. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Bureau may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice

1. California Business and Professions Code section 101.1, subdivision (b), states at subsection (1) that : “ In the event that any board, as defined in Section 477, becomes inoperative or is repealed in accordance with the act that added this section, or by subsequent acts, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of that board and its executive officer.”

1 Act.

2 7. Section 2878 of the Code states:

3 "The Board may suspend or revoke a license issued under this chapter [the
4 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

5 "(a) Unprofessional conduct

6 "(b) Procuring a certificate by fraud, misrepresentation, or mistake.

7

8 "(e) Making or giving any false statement or information in connection with the
9 application for issuance of a license.

10 "(f) Conviction of a crime substantially related to the qualifications, functions,
11 and duties of a licensed vocational nurse, in which event the record of the conviction shall be
12 conclusive evidence of the conviction."

13 . . .

14 "(j) The commission of any act involving dishonesty, when that action is related
15 to the duties and functions of the licensee."

16 8. Section 2878.5 of the Code states:

17 In addition to other acts constituting unprofessional conduct within the meaning
18 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person
19 licensed under this chapter to do any of the following:

20 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
21 licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or
22 administer to another, any controlled substance as defined in Division 10 of the Health and
23 Safety Code, or any dangerous drug as defined in Section 4022.

24 "(b) Use any controlled substance as defined in Division 10 of the Health and
25 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an
26 extent or in a manner dangerous or injurious to himself or herself, any other person, or the public,
27 or to the extent that the use impairs his or her ability to conduct with safety to the public the
28 practice authorized by his or her license.

1 "(c) Be convicted of a criminal offense involving possession of any narcotic or
2 dangerous drug, or the prescription, consumption, or self-administration of any of the substances
3 described in subdivisions (a) and (b) of this section, in which event the record of the conviction is
4 conclusive evidence thereof."

5 **REGULATORY PROVISIONS**

6 9. California Code of Regulations, title 16, section 2521, states:

7 "For the purposes of denial, suspension, or revocation of a license pursuant to
8 Division 1.5 (commencing with Section 475) of the Business and Profession Code, a crime or act
9 shall be considered to be substantially related to the qualifications, functions or duties of a
10 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
11 licensed vocational nurse to perform the functions authorized by his license in a manner
12 consistent with the public health, safety, or welfare."

13 **COST RECOVERY**

14 10. Section 125.3 of the Code provides, in pertinent part, that the Bureau may
15 request the administrative law judge to direct a licensee found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 **11. CONTROLLED SUBSTANCES**

19 a. "Marijuana," is a Schedule I controlled substance as defined in Health and
20 Safety Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug according
21 to Business and Professionals Code section 4022.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Conviction of Substantially Related Crimes)**

24 12. Respondent is subject to disciplinary action under section 2878,
25 subdivision (f) and 490 of the Code, as defined California Code of Regulations, title 16, section
26 2521, in that Respondent was convicted of crimes substantially related to the qualifications,
27 functions or duties of a licensed vocational nurse, as follows:

28 **POSSESSION OF MARIJUANA - 2008**

1 a. On or about February 26, 2008, Respondent was convicted by the Court on
2 a plea of nolo contendere, for violating one count of Health and Safety Code section 11357(b)
3 (possession of not more than 28.5 grams of Marijuana), a misdemeanor, in the Superior Court of
4 California, County of San Luis Obispo, Paso Robles Branch, Case No. **M000911391** entitled *The*
5 *People of the State of California v. Deborah Marie Flores*.

6 b. The circumstances of the conviction are that on or about November 3,
7 2007, consensual search of Respondent's vehicle, while parked in the visitor's parking lot at a
8 California Youth Authority correction facility, disclosed a plastic wrapped bindle of Marijuana.

9 c. Respondent was on probation from her two previous Vehicle Code section
10 23152(b) convictions (described below) at the time of her arrest and conviction.

11 **DRIVING UNDER THE INFLUENCE (ALCOHOL) - 2007**

12 d. On or about April 2, 2007, Respondent was convicted by the Court on a
13 guilty plea for violating one count of violating Vehicle Code section 23152(b)(driving while
14 having 0.08% and more, by weight of alcohol in her blood), a misdemeanor, in the Superior
15 Court of California, County of San Bernardino, San Bernardino Jurisdiction District, Case
16 No. **TSB118250** entitled *The People of the State of California v. Deborah Marie Flores*.

17 e. The circumstances of the conviction are that on or about July 27, 2005,
18 Respondent, drove a vehicle while having 0.08% and more, by weight, of alcohol in her blood.

19 **DRIVING UNDER THE INFLUENCE (ALCOHOL) - 2007**

20 f. On or about April 2, 2007, Respondent was convicted by the Court on a
21 guilty plea for violating one count of violating Vehicle Code section 23152(b)(driving while
22 having 0.08% and more, by weight, of alcohol in her blood), a misdemeanor, in the Superior
23 Court of California, County of San Bernardino, San Bernardino Jurisdiction District, Case
24 No. **TSB113088** entitled *The People of the State of California v. Deborah Marie Flores*.

25 g. The circumstances of the conviction are that on or about September 22,
26 2003, Respondent, driving alone, ran a stop sign then crashed into a fence. Responding to the
27 accident, County of San Bernardino Sheriff's Department officers found three cans of beer in and
28 around Respondent's disabled vehicle, and observed objective symptoms of alcohol intoxication.

1 Respondent was subsequently charged with driving while having 0.08% and more, by weight, of
2 alcohol in her blood.

3 **TRESPASS - 1993**

4 h. On or about July 21, 1993, Respondent was convicted by the Court on a
5 guilty plea for violating one count of Penal Code section 602(J) (trespass), a misdemeanor, in the
6 Municipal Court of California, County of Orange, Fullerton North Justice Center, Case No.
7 **NM9304420(B)** entitled *The People of the State of California v. Deborah Marie Flores*.

8 i. The circumstances of the conviction are that on or about April 23, 1993,
9 Respondent (age 26), a second adult and two minors (ages 9 and 13) were arrested for shoplifting
10 clothing and other merchandise from souvenir shops at 'Disneyland' theme park. Respondent
11 admitted theft of numerous items found by Disneyland security staff, hidden in a diaper bag and
12 baby stroller. She was allowed to plead to a lesser charge pursuant to a plea bargain.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Dangerous Use of Alcohol)**

15 13. Respondent is subject to disciplinary action under section 2878,
16 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in section
17 2878.5, subdivision (b), in that on at least two occasions - on or about September 22, 2003 and
18 July 27, 2005 - Respondent used alcoholic beverages to an extent or in a manner dangerous or
19 injurious to herself and the public, when she operated a vehicle while having 0.08% and more, by
20 weight, of alcohol in her blood. Complainant refers to, and by this reference incorporates, the
21 allegations set forth above in paragraph 12, as though fully set forth.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Conviction(s) Involving Controlled Substance or Consumption of Alcohol)**

24 14. Respondent is subject to disciplinary action under section 2878,
25 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in 2878.5,
26 subdivision (c), in that Respondent was convicted on three occasions - on or about February 26,
27 2008 and April 2, 2007 - involving the possession of a controlled substance or consumption of
28

1 alcohol. Complainant refers to, and by this reference incorporates allegations of paragraph 12,
2 above as though fully set forth.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Possession of a Controlled Substance)**

5 15. Respondent is subject to disciplinary action under section 2878,
6 subdivision (a) of the Code, on the grounds of unprofessional conduct, as defined in 2878.5,
7 subdivision (a), as follows:

8 a. On or about November 3, 2007, Respondent was found to be in possession
9 of Marijuana (a controlled substance) as described more fully at paragraph 12, subsections (a)-
10 (c), above.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(False Information in Initial Application for License)**

13 16. Respondent is subject to disciplinary action under section 2878,
14 subdivision (e) of the Code, on the grounds of unprofessional conduct, for making or giving a
15 false statement or information in connection with the application for issuance of a license as
16 follows:

17 a. On or about April 3, 2003, the Board received an application for
18 licensure from Respondent, in which she attested under penalty of perjury that the information in
19 the application was true and correct.²

20 b. In that portion of the application titled "Record of Conviction," ,
21 Respondent denied any previous criminal conviction. Specifically, in response to question
22 number 7 : "Have you ever been "convicted of any offense, including traffic violations?"
23 Respondent answered : "No."

24 c. In fact, Respondent was convicted by the Court of misdemeanor
25 trespass in Orange County, California on July 21, 1993, pursuant to a plea agreement following
26 her arrest for shoplifting at a "Disneyland" theme park as described more fully at paragraph 12 ,
27

28 2. The attestation was signed and dated by Respondent on March 29, 2003.

1 subsections (h) - (i), above.

2
3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Commission of Dishonest Acts Related to Application for License)**

5 17. Respondent is subject to disciplinary action under section 2878,
6 subdivision (j) of the Code, on the grounds of unprofessional conduct, in that she committed acts
7 involving dishonesty related to the duties and functions of the licensee, in that on or about March
8 29, 2003, under penalty of perjury, Respondent falsely denied that she had any previous criminal
9 convictions. As described more fully in paragraph 12, subsections (h) - (i), above, Respondent
10 was convicted of misdemeanor trespass in July of 1993.

11 **PRAYER**

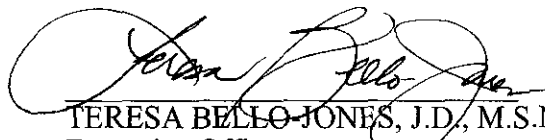
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Bureau issue a decision:

14 1. Revoking or suspending Vocational Nurse License No. VN 205629, issued
15 to Deborah Marie Flores;

16 2. Ordering Deborah Marie Flores to pay the Bureau the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3, and

19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: September 5, 2008

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22 

23 TERESA BELLO-JONES, J.D., M.S.N., R.N.
24 Executive Officer
25 Bureau of Vocational Nursing and Psychiatric Technicians
26 Department of Consumer Affairs
27 State of California
28 Complainant